27.

SUPREME COURT OF THE UNITED STATES.

No. 213.

THE UNITED STATES, APPELLANTS,

vs.

THOMAS H. PATTERSON.

APPEAL FROM THE DISTRICT COURT, U. S., FOR THE EASTERN DISTRICT OF LOUISIANA.

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GIDEON, Printer.

Eastern district of Louisiana; United States district court, sitting at New Orleans—in chancery.

THOMAS H. PATTERSON vs. The UNITED STATES. } No. 14.

Land cause.

Be it known and *and* remembered, that heretofore, to wit, on the thirteenth day of April, anno domini one thousand eight hundred and forty-six, being at the February term of said year of said court, Thomas H. Patterson came, by his solicitor, J. B. Carr, into the office of the clerk thereof, and there filed his petition, which is in the words and figures following, to wit:

Petition filed April 13th, 1846.

To the hon'ble Theodore H. McCaleb, judge of the dist. court of the United States of America, for the district of Louisiana.

The petition of Thomas H. Patterson, of the city of Pittsburgh, in the State Pennsylvania, respectively represents, that he is the owner, proprietor, and possessor of certain tracts or parcels of land situated in the parish of Sabine, formerly parish of Natchitoches, and State of Louisiana, and known as the La Nana and Las Ormigas tracts in said parish of Sabine, and being the interest in each of said tracts originally belonging to William Barr, deceased, as set apart and defined by judicial partition of said two tracts of land, made in the probate court of the parish of Natchitoches aforesaid, between the heirs at law of Samuel Davenport, deceased, and the heirs at law or successor of Edward Murphy, deceased, and the heirs at law or successor of said William Barr, deceased, and the heirs at law or successor of Luther Smith, deceased, (said Davenport, Murphy, Barr, and Smith, having been the former owners of the whole of said two tracts of land,) on or about the 26th day of April, 1833, as by reference to the record maps, and other proceedings therein still remaining on file and of record in said court of probates, will more fully and at large appear, and to which for greater certainty your petitioner asks leave to refer unto and introduce and give in evidence on the trial of this cause, as your honor may direct.

And your petitioner further represents, that he purchased said land of the heirs at law of said William Barr, deceased, of the State of Pennsylvania aforesaid, and that said land was conveyed to him by said heirs at law of said William Barr, deceased, by a deed of conveyance bearing date the 21st day of November, 1836, and which deed of conveyance is on record in the office of parish judge of the parish of Natchitoches aforesaid, and to which your petitioner, for greater certainty, begs leave to refer unto, and introduce and give in evidence on the trial of this cause, as your honor may direct.

And your petitioner further represents, that under and by virtue of said deed last aforesaid your petitioner became interested with the whole of said William Barr's interest, being one-fourth in each of said La Nana and Ormegas tracts of land.

And your petitioner further represents, that said La Nana tract of land was granted to said Edward Murphy, as hereinafter mentioned, to wit:

Said Edward Murphy, on or about the 22d day of February, A. D. 1798, at Nacogdoches, in the province or department of Texas—Texas then being a province or department of Spain, and said Murphy being at the time an inhabitant of Louisiana aforesaid, and subject of his Catholic Majesty the King of Spain, appeared before and presented his petition (his own proper signature being thereunto subscribed,) to Don José Maria Guardiana, said Guardiana being at the date of said petition 2d cornet of the company of Montchora, and military and civil commandant of said port of Nacogdoches, and ex officio lieutenant governor under his Majesty the King Spain, and for certain reasons therein stated prayed for a grant or concession of land on which to keep his stocks at said place called Lanana, as by reference to said petition will more fully and at large appear.

Whereupon said Guardiana did afterwards, to wit, on the first day of July, A. D. 1798, at Nacogdoches aforesaid, (he, said Guardiana, still remaining, and at the time last aforesaid being, military and civil commandant of said port, and lieutenant governor aforesaid,) ordained, decreed, and directed that said petition of said Edward Murphy should be passed to the procurador of said port, that he, said procurador, might leave in possession of the land described in said petition the interested person, meaning thereby said Murphy; which order, decree, or direction was in writing, and duly signed by said Guardiana, as by reference thereto will more fully and at large appear.

And your petitioner further represents, that said tract of land in the said petition so presented to said Guardiana, described as lying at a place called "La Nana," and situate on the east side of the river Sabine, about seven leagues from its margin, and on the road leading from said town of Nacogdoches to the port of Natchitoches, said tract of land from its centre, which is the prairie joining the bayou of the aforesaid "La Nana," and immediately on said road, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues in length each front line, the centre to be said prairie.

And your petitioner further represents, that after the date of said order, decree, or direction, so as aforesaid given by said Guardiana to said procurador, and on or about the first day of August, A. D. 1798, and in compliance therewith, one Don José Cayetano de Zepeda, syndic and procurador of the port and jurisdiction of Nacogdoches aforesaid, accompanied by his two assisting witnesses, Juan José Medina and José Domingues, went to said place called La Nana, in order to establish therein said Edward Murphy, who was then present, and give him possession of said premises in pursuance of said order or decree; and finding no conflicting

claims or other impediments, put said Edward Murphy, as Don Edward Murphy, in possession of the vacant lands prayed for in his said petition, with the extent and boundaries therein expressed, and visited the limits and territory with said witnesses and said Murphy; all which was done in the name of his Majesty the King of Spain; and as to all of which said syndic or procurador, with his assisting witnesses aforesaid, made a certified return in writing thereof, subscribed by their proper names, to said Guardiana, lieutenant-governor aforesaid, as by reference to said certificate and return will more fully and at large appear.

And your petitioner further represents, that said Guardiana afterwards, to wit, on the fourth day of August, 1798, at Nacogdoches aforesaid, said Guardiana still being military and civil commandant of said port, and lieutenant governor as aforesaid, thereupon made his further order and decree, that in virtue of the possession of said land so as aforesaid given to said Don Edward Murphy without any opposition, the original document to be placed in the protocol of said port, to serve as an evidence of the same, and there should be given to the interested person therein a certified copy as title for the property aforesaid. In testimony of which, said Guardiana, with his two assisting witnesses aforesaid, with their own proper hands signed said order or decree, and therein and thereby declaring that he, said Guardiana, acted with said witnesses for the want of a notary public, and on common paper for want of stamped, and to all of which said Guardiana gave faith, as by reference to said order or decree will more fully and at large appear.

To which petition, order of delivery of possession, act of possession, and certificate and return thereof, and said order or decree of confirmation still remaining on file and of record in the office of register of public lands at Opelousas, in the western land district of the State of Louisiana aforesaid, pray for greater certainty to refer unto, and introduce and give in evidence on the trial of this, as your honor may direct.

And your petitioner further represents, that said land, so as aforesaid granted, now lies within the late "neutral territory," in the parish of Sabine, formerly parish of Natchitoches, and State of Louisiana aforesaid, and that said territory at the date of said grant, and at the time when the same was made as aforesaid, was within the limits of the province or department of Texas aforesaid, and within the jurisdiction of the post of Nacogdoches aforesaid, and that Texas was at the time under the dominion of Spain; and that said Guardiana, as such military and civil commandant of said post, and lieutenant governor as aforesaid, had good right and lawful authority to grant the same in manner aforesaid; and that said grant, and all preliminary proceedings relating thereto, were in all things in conformity to the laws, usages, and customs of Spain, as then existed and were exercised at the post of Nacogdoches, in said province or department of Texas; and that said grant invested said Edward Murphy, and his legal representatives, with a good, absolute, and indefeasible estate of inheritance.

And your petitioner further represents, that said Edward Murphy

did afterwards, to wit, on the 3d day of November, 1798, at Nacogdoches aforesaid, convey said premises so granted to him as aforesaid to a commercial house or firm known by the name of William Barr & Co., then doing business at Nacogdoches aforesaid, and consisting of himself, said Murphy, Samuel Davenport, William Barr, and Luther Smith; as by reference to the deed of conveyance, still remaining on file and of record in the office of receiver at Opelousas aforesaid, will more fully and [at] large appear, and to which for greater certainty your petitioner begs leave to refer, and introduce and give in evidence on the trial of this cause as your honor may direct.

And your petitioner further represents, that immediate possession was taken under said grant so made by said Guardiana as aforesaid, and has been so continued by said Edward Murphy and his legal representatives, except as hereinafter excepted, to the present time.

Your petitioner further represents, that said Las Ormigas tract of land was granted as hereinafter mentioned to one Jacinto Mora, then a citizen of Louisiana, and a subject of his Majesty the King of Spain, who heretofore, to wit, on the 14th day of November, A. D. 1795, at Nacogdoches aforesaid, in the province or department of Texas aforesaid, (Texas then being a province or department of Spain as aforesaid,) appeared before, and presented his petition to, Bernardo Fernandez, then being civil and military commandant of the post of Nacogdoches aforesaid, and lieutenant governor as aforesaid under the King of Spain; and upon statements and representations therein contained, prayed for a grant or concession of land of six leagues square, to be made to him, the said Jacinto Mora, at a place called "Las Ormigas," situate on the east side of the river Sabine, and distant from the aforesaid village of Nacogdoches about twenty-five leagues; the principal point or western boundary to extend north and south six leagues, so that the union of said line will be the "Indian crossing place," on said river Sabine; the north line to begin at the northern extremity of said front line, on the east bank of said river, and extending six leagues east, forming with the front line a rectangle; the south line to commence on the southern extremity of the aforesaid front line, and extending six leagues east, forming also with the other a rectangle; the line on the east side to commence at the extremity of the north line, and running parallel with said river until it joins the extremity of the north line, so that the prairie and placing of the above Ormegas will be included in the square of the four fronts of six leagues in length each, formed by the expressed four lines, &c.; and which petition was duly signed by said Jacinto Mora.

And your petitioner further represents, that said Bernardo Fernandez did thereupon, to wit, A. D. 1795, at Nacogdoches aforesaid, order and decree, in writing, that the syndic procurador, Don José Calletano de Zepeda should establish said petitioner in the aforesaid place, and in the manner asked for, if vacant, and not prejudicial to any inhabitant proprietor of land, observing all the usual formalities of style, and extend the proceedings had in continuation for the more effectual confirma-

tion of property; which said order or decree was in writing, and signed by said Bernado Fernandez, as by reference thereto will more fully appear.

And your petitioner further represents, that said Don José Calletano de Zepeda, syndic procurador of said district of Nacogdoches, did thereafter, to wit, on the 2d day of December, A. D. 1795, in conformity with said order or decree, and accompanied by assisting witnesses, Don José de la Bega and Juliano Grande, go to said place called Las Ormigas, and after visiting the limits thereof, give said Jacinto Mora possession of said premises in conformity with said decree; there being no inhabitants near, and the same not interfering with any other rights or proprietor of land. And said syndic did then and there, with his assisting witnesses aforesaid, to wit, on the day and year last aforesaid, certify and make return of the same in writing, their own proper hands being thereunto subscribed, to said Bernado Fernandez, as by reference thereto will more fully appear.

Wherefore the said Bernado Fernandez did afterwards, to wit, on the 15th day of December, A. D. 1795, at Nacogdoches aforesaid, (said Bernado Fernandez still being civil and military commandant of said post, and lieutenant governor as aforesaid, and it appearing by said return that said tract of land did not interfere with any other proprietor of land or prior grants, and there being no impediments,) confirm said possession, &c., in form and manner aforesaid, to said Jacinto Mora, his heirs and representatives, in perpetuity; all of which said Bernado Fernandez did in the name of his majesty the King of Spain; which decree or confirmation was in writing, and signed by said Bernardo Fernandez; which petition, order, or decree of possession, delivery of possession, order or decree of confirmation, still remaining on file and of record in the office of [the] receiver of the western land district at Opelousas, in said State of Louisiana, by reference thereto will more fully and at large appear, and to which for greater certainty your petitioner begs leave to refer, and introduce and give evidence on the trial of this cause, as your honor may direct.

And your petitioner further represents, that said land *is* as last aforesaid granted, now lies within the late "neutral territory," in the parish of Natchitoches, and State of Louisiana aforesaid, and that said territory at the time when said grant last aforesaid was made was within the province or department of Texas, and that Texas was at the time under the dominion of Spain, and that said Bernardo Fernandez, as such civil and military commandant and lieutenant governor aforesaid, had good right and lawful authority to grant the same in manner aforesaid; and that said grant, and all preliminary proceedings thereto, were in all things in conformity to the laws, usages, and customs of Spain, as then existed in the province or department of Texas, at the post of Nacogdoches aforesaid; and that said grant last aforesaid invested said Jacinto Mora with a good, absolute, and indefeasible estate of inheritance.

And your petitioner further represents, that said Jacinto Mora did

afterwards, to wit, on the 22d day of July, 1805, at Nacogdoches aforesaid, for a valuable consideration, convey said premises in said grant mentioned to a commercial co-partnership thus and then, to wit, on the day and year, and at the place last aforesaid, existing and known by the name of William Barr & Co., and consisting of said Barr, Samuel Davenport, Edward Murphy, and Luther Smith, as by reference to said deed of conveyance, still remaining on file and of record in the office of receiver at Opelousas aforesaid, will more fully and at large appear, and to which for greater certainty your petitioner begs leave to refer, and introduce and give in evidence on the trial of this cause as your honor may direct.

And your petitioner further represents, that immediate possession was taken of said land by said Jacinto Mora at the time when said grant last aforesaid was made, and has been so continued by him and his legal representatives (except as hereinafter excepted) from the date of said grant to the present time.

And your petitioner further represents, that all the members of said copartnership of William Barr & Co., are now, and for a long time past have been, deceased, but at what particular time they or either of them died, your petitioners do not know and cannot therefore state.

And your petitioner further represents, that said La Nana and Ormigas tracts of land were respectively surveyed, and the lines thereof duly marked, at or about the time when said grants were respectively made.

And your petitioner further represents, that said commercial copartnership was dissolved on or about the 9th day of October, A. D. 1806, and all the copartnership property divided, except said La Nana and Ormigas tracts of land, which by the terms of agreement in the articles of dissolution were to be and remain the joint property of said Davenport, Barr, Murphy, and Smith, as by reference to said articles of dissolution, still remaining of record in the office of parish judge of the parish of Natchitoches aforesaid, will more fully and at large appear, and to which your petitioner asks leave to refer, and introduce in evidence on the trial of this cause as your honor may direct.

Your petitioner further represents, that said grants of land have been on several occasions, and as your petitioner believes in the year 1824, and 1836, and 1840, presented and submitted to various boards of commissioners, who at sundry times have been established by various acts of Congress, for inquiring into and reporting upon titles to land lying within said State of Louisiana, and derived under Spanish or French grants and authority, and that each and all of said boards of comm'ssioners have, after the examination of the titles to said La Nana and Las Ormigas tracts of land, and after hearing the proofs and allegations of the parties interested therein, as well in behalf of the owners of said grants respectively, as in behalf of the United States, have classed said grants respectively among claims of the first class, reported said grants or titles respectively as good, and recommended the same respectively for confirmation; as by reference to the records and proceedings and reports of

said board of commissioners, remaining on file in said register's office, at Opelousas aforesaid, will more fully and at large appear, and to which your petitioner for greater certainty begs leave to refer, and give in evidence on the trial of this cause, (together with all testimony taken by said board of commissioners, or either of them, or any other testimony taken by any other board of commissioners, and relating to said lands,) as your honor may direct.

And your petitioner further represents, that on or about the 26th day of April, A. D. 1833, a judicial partition of said lands embraced in each of said grants was made in the probate court, in the parish of Natchitoches aforesaid, (in which parish said lands were then situate,) between the heirs at law and legal representatives of said Davenport, Barr, Murphy, and Smith, all of whom were then deceased; by which partition said two tracts of land were divided into four equal parts, having reference to the claims thereof; the legal representatives of the deceased Davenport, Barr, Murphy, and Smith, taking one-fourth of each of said tracts, according to the value thereof, as represented on the maps of said two tracts made by G. T. and W. H. Walmsly, filed in this court with the petition of Henry Yates and Archibald McIntyre, against the United States, and to which, with the record, maps, and other proceedings, still remaining on file and of record in the office of clerk of said court of probates, your petitioner asks leave to refer unto, and introduce and give in evidence on the trial of this cause as your honor may direct. And your petitioner further represents, that said lands have since been held in severalty, pursuant to said partition.

And your petitioner further represents, that on or about the 22d day of February, A. D. 1841, the owners of said two tracts of land applied to the surveyor general of the United States for the State of Louisiana, for a survey of said lands, and thereupon said surveyor general issued his order or request, addressed to Geo. T. and W. H. Walmsly, United States deputy surveyors at Natchitoches, to survey and plat said tracts of land, and make return to him, said surveyor general, as by the copy of said order or request, filed in this court with said petition of Yates and McIntyre, and the original thing still remaining of record in said office of surveyor general, will more fully and at large appear, and to which your petitioner for greater certainty asks leave to refer unto, and introduce in evidence on the trial of this cause as your honor may direct.

And your petitioner further represents that said Geo. T. and William H. Walmsly surveyed said two tracts of land pursuant to said order, and divided the same according to said judicial partition between the aforesaid parties, and made return thereof to said surveyor general, who returned the same to the United States commissioners of the General Land office at Washington; a true copy of which maps are also filed with said petition of Yates and McIntyre, and to all which your petitioner begs leave to refer, and introduce on the trial of this cause in such manner as your honor may direct.

And your petitioner further represents, that he, and those under whom

your petitioner claims have taken every means in their power to prevent the granting or selling of any of said lands by the United States, and as often as a sale by the Government of the United States has been advertised of the lands lying within the district within which your petitioner's lands are situated, a notice has been given to the register and receiver of said district of said claims, and that such notices, so as aforesaid from time to time given, have drawn from the department of public lands, in the city of Washington, sundry letters, copies of which are filed with said petition of Yates and McIntyre, and to which your petitioner begs leave to refer, and introduce in evidence on the trial of this cause in such manner as your honor may direct.

And your petitioner further represents, that some of the lands of your petitioner have, from time to time, been sold and granted by the United States to sundry individuals, and are now held under land grants and sales, and that no part of the purchase-money has been refunded by the United States; and that it is neither the wish or design of your petitioner to contest said grants and sales, as shown on the certificate of the register of public lands of Natchitoches, filed herewith, and to which for greater certainty your petitioner begs leave to refer.

And your petitioner claims, nevertheless, that, for all the lands so granted and sold as aforesaid, he has a right by law to locate an equal quantity elsewhere on the lands belonging to the United States, within the State of Louisiana aforesaid.

Your petitioner further represents, that he and those under whom he claims have made various efforts to have the title to said two tracts of land recognised and confirmed by the United States, but have hitherto been remediless in the premises (unless said reports by said board of commissioners amount to such recognition and confirmation) until the passage of the act approved the 17th June, 1844, being an act of the Congress of the United States, entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of Mississippi and Alabama south of the thirty-first degree of north latitude, and between the Mississippi and Perdido rivers."

And your petitioner avers, that the territory or district of country in which the aforesaid grants of land are situate, was acquired by the United States by treaty between France and the United States, in the year A. D. 1803, or the treaty between his Catholic Majesty the King of Spain, and the United States, in the year 1819; and that said grants having been made a long time prior to those treaties, and having been accompanied by continued possession—both having been granted as vacheries or stock ranges, and both grants being bona fide in their origin, and their genuineness never having been questioned or doubted, and both having been repeatedly referred to tribunals established by the Congress of the United States for inquiring into and reporting on titles of land in that territory thus divided, and having been by said tribunals repeatedly and uniformly pronounced good and valid, and recommended

to the proper department of the Government of the United States for confirmation—are considerations which, in the opinion of your petitioner, should have induced the Government of the United States long since to have confirmed said grants; and that, in neglecting to do so, the Government has not only exhibited a dereliction of duty which it owed to its citizens, but has thereby violated one of the solemn engagements imposed upon it by said treaty, to wit, the recognition and confirmation of all such claims and grants; and the doing of which may justly be regarded as a condition precedent to the perfection of its own title to the public domain acquired under said treaty.

Entertaining these views, and regarding the act of Congress, approved the 17th of June, 1844, and providing for the adjustment of land titles, &c., as aforesaid, as unjust in some of its provisions and imperfect in its details, your petitioner, in the absence of any other remedy, respectfully asks leave to file this his petition against the United States, under said act last aforesaid, subject, nevertheless, to the solemn protest of your petitioner against all such provisions contained in said act which requires titles derived as aforesaid to be prosecuted to final judgment within a limited period, or to be forever thereafter debarred, and such titles forfeited, and the lands thereby embraced to be thereafter treated as Government lands, and to be surveyed and sold as such; and also to all such provisions as subjects the claimants to any such lands to the payment of costs, if such should be decreed by this honorable court the fair construction of said act.

Your petitioner also prays that a copy of this petition may be served on T. W. Downs, esquire, the district attorney of the United States for the district of Louisiana, together with a citation requiring him to appear in this honorable court, at a day certain to be therein named, and show cause, if any he have, why said titles should not be inquired into and adjudged by this honorable court in favor of your petitioner.

Your petitioner also prays that said claims may be so inquired into, and adjudged and decreed by this honorable court in favor of your petitioner, as herein set forth, and as shown on said maps made by G. T. and W. H. Walmsly, and filed with the petition of Henry Yates and Archibald McIntyre, as aforesaid; and that your petitioner be permitted to locate a like quantity of land within the State of Louisiana, according to law; and that your petitioner be permitted to amend his petition, from time to time, as may become necessary; that costs may be adjudged to him in this behalf; and that such further and general relief may be granted to your petitioner in the premises as may be deemed reasonable and according to equity and good conscience.

All which is respectfully submitted.

(Signed) J. B. CARR, *Att'y for petitioner.*
(Signed) H. BALDWIN, *of counsel.*

N. B. The foregoing petition is thus endorsed: "Filed April 13th, 1846. D. E. SIMONDS, *D'y clerk.*"

"I hereby admit due service of a copy of the within petition, and waive service of citation.

"S. W. DOWNS,
U. S. attorney, dist. of La."

And thereupon, at the same term, to wit, February term, 1846, Monday, April 13th, 1846, was filed in the clerk's office a document entitled stipulation as to testimony, in the following words, to wit:

United States district court.

THOMAS H. PATTERSON
vs.
THE UNITED STATES.

I hereby consent that the testimony taken in the cause of Henry Yates and Archibald McIntyre against the United States in this court be admitted in the above suit, except so far as the same relates to the mesne conveyances, subject nevertheless to all exceptions taken thereto.

(Signed) H. BALDWIN,
Of counsel for petitioner.
S. W. DOWNS,
U. S. att'y, dist. of La.

And further, at the same term, to wit, February term, 1846, Tuesday, April 14th, 1846, was entered of record the following order herein:

THOMAS H. PATTERSON
vs.
THE UNITED STATES. No. 14.

On motion of H. Baldwin, of counsel for petitioner, the United States attorney being present and not objecting, it is ordered that the time for taking testimony be enlarged until the first Monday of January, 1847.

And thereafter, at the December term, to wit, on the 19th day of December, anno domini one thousand eight hundred and forty-six, appeared the defendants, by their attorney, Thomas J. Durant, and filed in the clerk's office the following

Answer.

In the district court of the United States for the district of Louisiana.

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vs.
THE UNITED STATES.

The answer of the United States, the defendants in the above named cause, respectfully shows, that they deny all and singular the facts and allegations in plaintiff's petition contained. Wherefore they pray that they may be hence dismissed with costs.

(Signed) THOS. J. DURANT, *att'y U. S.*

And afterwards, at the December term, to wit, December term, Monday, January 11th, 1847, was duly entered of record herein the following order:

THOMAS H. PATTERSON
vs.
THE UNITED STATES. } No. 14.

On motion of the counsel for the complainant in the above entitled cause, the district attorney not opposing, it is ordered that the time for taking testimony in the said cause on the part of complainant be extended until the first Monday in May next, and the further order of the court.

And afterwards, at the February term, A. D. 1849, to wit, February term, 1849, Wednesday, March 7th, 1849, was duly entered of record the following agreement, trial, and submission of cause:

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This cause being regularly set down for hearing to-day, John L. Daniel, esq., appeared on behalf of the plaintiff, and the U. S. district attorney for the defendants. Whereupon, it being agreed between the respective parties that the evidence offered this day in the case of the heirs and representatives of Samuel Davenport versus the United States, numbered twenty on the docket of land causes, apply and be considered as evidence also herein; and further leave being granted by the court to the plaintiff to file within sixty days hence, as additional evidence, a certain transfer made by the heirs of Barr to the present plaintiff, the case was submitted to the consideration of the court.

Evidence for plaintiff.

Nota Bene. (For greater part of evidence vide stipulation of April 13th, 1846, on page 21 hereof, and the foregoing entry of record.)

Testimony taken by consent of parties in open court.

Deposition of A. Cruzat, as to the signature and residence of José Piernas, whose name appears in document X, of record in the case of "Yates and McIntyre vs. The United States," and referred to herein, (as per stipulation already copied.)

THOMAS H. PATTERSON
vs.
THE UNITED STATES. }

Antoine Cruzat, esq., being sworn herein, deposes as follows:

On being shewn a certain document, marked Doc. X, of record in the case of Yates and McIntyre versus the United States, and offered as evidence herein, states that the sale therein is in the handwriting of Joseph Piernas, whose signature thereto is genuine and well known to witness. Said Piernas was witness' godfather; witness is now 74 years of age; Piernas arrived in Louisiana somewhere about the year 1770, and therein resided until his death, which took place after the invasion of the country by the English in 1814–'15.

No cross questions by the U. S. district attorney—present.

(Signed) A. CRUZAT.

Attest: (Signed) ROB'T. M. LUSHER,
Dep'y clerk U. S. dist. court.

The plaintiff offered in evidence, deed by Barr's heirs to Thos. H. Patterson, November 21, 1836, filed in evidence on the 24th of March, 1849, in furtherance of order entered March 7th, 1849; which deed is as follows:

This indenture, made this twenty-first day of November, in the year of our Lord one thousand eight hundred and thirty-six, between John Huston, of Washington county, in the Commonwealth of Pennsylvania, and Nancy, his wife, late Nancy Barr, and sister of William Barr, late of Natchitoches, in the State of Louisiana, deceased, David B. Kennedy and Mary, his wife, John McKnight and Nancy, his wife, and William Dunshee and Acksah his wife, late of the county of Alleghany, in the Commonwealth of Pennsylvania aforesaid, by Robert Thompson, of Washington county, their attorney, duly authorized by letters of attorney, bearing date the twenty-fourth day of December, in the year of our Lord one thousand eight hundred and thirty, and recorded in the parish of Natchitoches, in the State of Louisiana, in book B, fos. 64, 65, 66, 67, of the one part, and Thomas H. Patterson, of the city of Pittsburgh, county of Alleghany, and State of Pennsylvania aforesaid, of the other part, witnesseth: That the said party of the first part, by their said attorney, for and in consideration of the sum of three thousand dollars, lawful money of the United States, to their said attorney in hand paid by the said Thomas H. Patterson, at or before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents do grant, bargain, sell, alien, enfeoff, release, and confirm, unto the said Thomas H. Patterson, his heirs and assigns, all the right, title, claim, interest, property and demand of them, the said party of the first part, of, in, and to the two following described tracts of land, situate, lying, and being in the parish of Natchitoches, in the State of Louisiana—the one being four leagues square, called La Nana, and situated between the Sabine and Red rivers, in a tract of country called the "neutral territory," granted to Edward Murphy, by grant of the first of July, one thousand seven hundred and ninety-eight, of which tract the said party of the first claim, as heirs of the said William Barr, title to the one-fourth, which one-fourth has been set off by metes and bounds unto the said party of the first part, under an amicable arrangement between the said attorney of the said party of the first, and the heirs of Don Pedro, Samuel Davenport, Edward Murphy, and Luther Smith; which partition and delivery remain of record in and among the records of the said parish of Natchitoches, in the State of Louisiana aforesaid; the other being six leagues square, in the same neutral territory, called Las Ormigas, originally granted to Jacinto Mora, on or about the fourteenth of November, one thousand

seven hundred and ninety-five, and of which last named tract of land the said party of the first part also claim title to the one-fourth part, as the heirs of William Barr; which one-fourth part has, by an amicable arrangement made between the said attorney of the said party of the first part and the heirs of Don Pedro, Samuel Davenport, Edward Murphy, and Luther Smith, been set off by metes and bounds unto the said party of the first part, as upon reference to the records of said partition, remaining among the records of the said parish of Natchitoches, in the State of Louisiana aforesaid, will more fully appear; which fourth parts of said tracts of land being the full and entire interest and property of the said John Huston and Nancy, his wife, David B. Kennedy and Mary, his wife, John McKnight and Nancy, his wife, and William Dunshee and Acksah, his wife, the said party of the first part, of, in, and to said tracts of land, are hereby conveyed and intended so to be, unto the said Thomas H. Patterson, his heirs and assigns, together with all and singular the buildings, improvements, woods, water-courses, rights, liberties, hereditaments, and appurtenances whatsoever thereunto belonging or in any wise appertaining, and the reversions and remainders, rents, issues, and profits thereof, and also all the estate, right, title, interest, property, claim, and demand whatsoever of them, the said party of the first part, in law or equity, or otherwise howsoever, of, in, and to the same: To have and to hold the said mentioned fourth parts of said described tracts of land, with the hereditaments and premises hereby granted, or mentioned or intended so to be, with the appurtenances, unto the said Thomas H. Patterson, his heirs and assigns, to and for the only proper use, benefit, and behoof of him, the said Thomas H. Patterson, his heirs and assigns, forever. And the said party of the first part do hereby covenant and agree, to and with the said Thomas H. Patterson, his heirs and assigns, the said mentioned fourth parts of said described tracts of land hereby granted, with the appurtenances, unto the said Thomas H. Patterson, his heirs and assigns, against them, the said party of the first part, and against their heirs, and against all and every other person or persons, lawfully claiming or to claim the same, by, through, or under them, the said party of the first part, or any of them, their or any of their heirs, shall and will warrant and forever defend by these presents. And further, the said party of the first part do hereby, for themselves and their heirs, covenant and agree, to and with the said Thomas H. Patterson, his heirs and assigns, that they, the said party of the first part, shall and will, at any time hereafter, upon the reasonable request and at the proper costs of the said Thomas H. Patterson, his heirs and assigns, execute such deed or deeds for the further, better, and more perfect and absolute assurance and confirmation of the said fourth parts of said tracts of land, hereditaments and premises, hereby granted or mentioned, or intended so to be, unto the said Thomas H. Patterson, his heirs and assigns, as by him or them, or by his or their counsel, shall be deemed necessary, in order fully to secure unto the said Thomas H. Patterson, his heirs and assigns, the entire interest, property, claim and demand, of the said party of the first, in, to, and of said tracts of land.

In witness whereof the said John Huston and Nancy, his wife, David B. Kennedy and Mary, his wife, John McKnight and Nancy, his wife, and William Dunshee and Acksah, his wife, by their said attorney, Robert Thompson, have hereunto set their hands and seals the day and year first above written.

JOHN HUSTON, [SEAL]
NANCY HUSTON, [SEAL.]
DAVID B. KENNEDY, [SEAL.]
MARY KENNEDY, [SEAL.]
JOHN McKNIGHT, [SEAL.]
NANCY McKNIGHT, [SEAL.]
WILLIAM DUNSHEE, [SEAL.]
ACKSAH DUNSHEE, [SEAL.]
By their attorney in fact, ROBERT THOMPSON. [SEAL.]

Signed, sealed, and delivered, in presence of—
(Signed) TH. LIVINGSTON,
(Signed) TH. IRWIN.

UNITED STATES OF AMERICA,
Western district of Pennsylvania, ss.

Before the honorable Thomas Irwin, judge of the district court of Pennsylvania, on the twenty-second day of November, in the year of our Lord one thousand eight hundred and thirty-six, John Huston and Nancy, his wife, David B. Kennedy and Mary, his wife, John McKnight and Nancy, his wife, and William Dunshee and Acksah, his wife, by their attorney in fact Robert Thompson, personally appeared, and by their said attorney acknowledged the within and foregoing indenture of conveyance to be their act and deed, and desired that the same be recorded as such.

Witness the hand and seal of the said Thomas Irwin, judge of the district court of the United States of America as aforesaid.

(Signed) TH. IRWIN, [SEAL.]
D. Judge, W. D. Pa.

UNITED STATES OF AMERICA,
Western district of Pennsylvania, ss.

I, Edward J. Roberts, clerk of the district court of the United States of America, in and for the western district of Pennsylvania, do hereby certify, that the honorable Thomas Irwin, before whom the within and foregoing indenture of conveyance was acknowledged, and who has in his own proper handwriting certified the same, was at the time of said acknowledgment, and now is, judge of the district court of the United States of America, in and for the western district of Pennsylvania, and that full faith and credit are and of right ought to be given to his acts as such, as well throughout the United States as elsewhere.

In testimony whereof I have hereunto set my hand and affixed the

seal of said court, the twenty-second day of November, anno domini 1836, and of the independence of the United States the sixty-first.

(Signed) E. J. ROBERTS, [SEAL.]
Clerk.

Received on the day of the date of the within and foregoing indenture, of and from the before named Thomas H. Patterson, the sum of three thousand dollars, lawful money of the United States, the consideration money in the within and foregoing indenture of conveyance mentioned in full.

(Signed) ROBT. THOMPSON,
Attorney in fact of Huston and wife et al.

Attest: (Signed) TH. LIVINGSTON.

Close of evidence.

And afterwards, at the May term, A. D. 1849, to wit:

May term, 1849.

Saturday, May 26th, 1849. Was rendered by the court and recorded the following

Judgment,

which was duly engrossed and signed on the 30th May, of said year, viz:

THOMAS H. PATTERSON
vs. } No. 14.
THE UNITED STATES.

This cause came on for trial on the 7th of March, 1849; at the February term, 1849, of this court, on petition and answer and the evidence of record in the case of Yates and McIntyre vs. The United States, and other proofs herein exhibited, and was argued by counsel; and after mature consideration thereof, the court being satisfied that the petitioner, Thomas H. Patterson, has made out his case under the provisions of the act of Congress, approved on the 17th of June, 1844, which revives and extends to Louisiana and other States the act approved on the 26th of May, 1824, and entitled "An act enabling the claimants to lands within the limits of the State of Missouri and territory of Arkansas, to institute proceedings to try the validity of their claims;" and being further satisfied that the claim of the petitioner was secured by treaty stipulations, that the same is valid by the laws of nations, the usages and customs of the government under which it originated, and by the several acts of Congress:

It is, therefore, for the reasons given in the case of Yates and McIntyre vs. The United States, and that of Samuel Davenport et al. vs. The United States, now ordered, adjudged, and decreed, that the petitioner recover of the United States the lot numbered four in the La Nana tract or grant of land, and that likewise numbered four in the Ormigas tract or grant of land, as prayed for in his petition; which lots are fully de-

scribed in a certain plat of survey made by Warmsley, and are also fully described as lots numbers four in each of the aforesaid tracts or grants of land, in a judicial partition made by the probate court of the parish of Natchitoches, on the 26th of April, 1833, a copy whereof is now of record in the said suits of Yates & McIntyre vs. The United States.

It is further ordered, adjudged, and decreed that, in case it shall be found that the United States have sold or otherwise disposed of any portion of the said tract or grant of land so decreed to the said petitioner, then he, the petitioner, shall be entitled to locate an equal quantity elsewhere, according to the provisions of the 11th section of the act of Congress, approved on the 26th of May, 1824.

It is further ordered, adjudged, and decreed, that the petitioner pay the costs of this suit.

Judgment rendered 26th May, 1849.

Judgment signed 30th May, 1849.

(Signed) THEO. H. McCALEB, [SEAL.]
U. S. Judge.

Attest: (Signed) ROBT. M. LUSHER,
Deputy Clerk.

And further, and finally, at the same term, and on the said 30th day of May, 1849, was moved for in open court, granted and recorded, the following

Order of Appeal.

On motion of Logan Hunton, attorney of the United States for the eastern district of Louisiana, and of Thomas J. Durant on the same behalf, and on giving the court to understand and be informed that the United States are injured and aggrieved by the judgment of this honorable court, rendered against them at this term, in the matter of Thomas H. Patterson vs. The United States, and desire to appeal therefrom:

It is thereupon ordered by the court that an appeal be allowed in favor of the United States from the judgment aforesaid, returnable to the Supreme Court of the United States at the next term thereof after the date of this order.

THE UNITED STATES OF AMERICA,
Eastern district of Louisiana.

I, Needler R. Jennings, clerk of the district court of the United States, sitting at New Orleans, in and for said district, do hereby certify, that the foregoing thirty-four folios of manuscript contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters as they now remain on file and of record in a certain cause in chancery, wherein Thomas H. Patterson is plaintiff, and the United States are defendants. No. 14 of the land docket of said court.